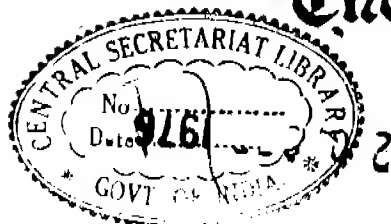




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इस भाग में भिन्न पृष्ठ संख्या दी जात है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS
(Legislative Department)

New Delhi, the 3rd September, 1976/Bhadra 12, 1898 (Saka)

The following Act of Parliament received the assent of the President on the 2nd September, 1976, and is hereby published for general information:—

THE ESSENTIAL COMMODITIES (AMENDMENT) ACT, 1976
No. 92 of 1976

[2nd September, 1976]

An Act further to amend the Essential Commodities Act, 1955.

10 of 1955.

BE it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Essential Commodities (Amendment) Act, 1976.

Amendment of section 2.

2. In section 2 of the Essential Commodities Act, 1955 (hereinafter referred to as the principal Act), before clause (a), the following clause shall be inserted, namely:—

‘(ia) “Collector” includes an Additional Collector and such other officer, not below the rank of Sub-Divisional Officer, as may be authorised by the Collector to perform the functions and exercise the powers of the Collector under this Act;’.

Amendment of section 3.

3. In section 3 of the principal Act,—

(a) in sub-section (2),—

(i) for clause (f), the following clause shall be substituted, namely:—

‘(f) for requiring any person holding in stock, or engaged in the production, or in the business of buying or selling, of any essential commodity,—

(a) to sell the whole or a specified part of the quantity held in stock or produced or received by him,
or

(b) in the case of any such commodity which is likely to be produced or received by him, to sell the whole or a specified part of such commodity when produced or received by him,

to the Central Government or a State Government or to an officer or agent of such Government or to a Corporation owned or controlled by such Government or to such other person or class of persons and in such circumstances as may be specified in the order.

Explanation 1.—An order made under this clause in relation to foodgrains, edible oilseeds or edible oils, may, having regard to the estimated production, in the concerned area, of such foodgrains, edible oilseeds and edible oils, fix the quantity to be sold by the producers in such area and may also fix, or provide for the fixation of, such quantity on a graded basis, having regard to the aggregate of the area held by, or under the cultivation of, the producers.

Explanation 2.—For the purpose of this clause, “production” with its grammatical variations and cognate expressions includes manufacture of edible oils and sugar;’

(ii) in clause (j), for sub-clause (iii), the following sub-clause shall be substituted, namely:—

“(iii) of any books of accounts and documents which in the opinion of such person, may be useful for, or relevant to, any proceeding under this Act and the person from whose custody such books of accounts or documents are seized shall be entitled to make copies thereof or to take extracts therefrom in the presence of an officer having the custody of such books of accounts or documents.”;

(b) for sub-section (3B), the following sub-section shall be substituted, namely:—

“(3B) Where any person is required, by an order made with reference to clause (f) of sub-section (2), to sell to the Central Government or a State Government or to an officer or agent of such Government or to a Corporation owned or controlled by such Government, any grade or variety of foodgrains, edible oilseeds or edible oils in relation to which no notification has been issued under sub-section (3A), or such notification having been issued, has ceased to be in force, there shall be paid to the person concerned, notwithstanding anything to the contrary contained in sub-section (3), an amount equal to the procurement price of such foodgrains, edible oilseeds or edible oils, as the case may be specified by the State Government, with the previous approval of the Central Government having regard to—

(a) the controlled price, if any, fixed under this section or by or under any other law for the time being in force for such grade or variety of foodgrains, edible oilseeds or edible oils;

(b) the general crop prospects;

(c) the need for making such grade or variety of foodgrains, edible oilseeds or edible oils available at reasonable prices to the consumers, particularly the vulnerable sections of the consumers; and

(d) the recommendations, if any, of the Agricultural Prices Commission with regard to the price of the concerned grade or variety of foodgrains, edible oilseeds or edible oils.”.

4. Section 6A of the principal Act shall be re-numbered as sub-section (1) thereof and—

Amend-
ment of
section 6A.

(a) in sub-section (1), as so re-numbered,—

(i) for the words “it may be produced, without any unreasonable delay, before”, the words “a report of such seizure shall, without unreasonable delay, be made to” shall be substituted, and for the words “if satisfied”, the words “may, if he thinks it expedient so to do, direct the essential commodity so seized to be produced for inspection before him, and if he is satisfied” shall be substituted;

(ii) after the proviso, the following proviso shall be inserted, namely:—

“Provided further that in the case of any animal, vehicle, vessel or other conveyance used for the carriage of goods or passengers for hire, the owner of such animal, vehicle, vessel or other conveyance shall be given an option to pay, in lieu of its confiscation, a fine not exceeding the market price at the date of seizure of the essential commodity sought to be carried by such animal, vehicle, vessel or other conveyance.”;

(b) after sub-section (1) as so re-numbered, the following sub-sections shall be inserted, namely:—

“(2) Where the Collector, on receiving a report of seizure or on inspection of any essential commodity under sub-section (1), is of the opinion that the essential commodity is subject to speedy and natural decay or it is otherwise expedient in the public interest so to do, he may—

(i) order the same to be sold at the controlled price, if any, fixed for such essential commodity under this Act or under any other law for the time being in force; or

(ii) where no such price is fixed, order the same to be sold by public auction:

Provided that in case of foodgrains, the Collector may, for its equitable distribution and availability at fair prices, order the same to be sold through fair price shops at the price fixed by the Central Government or by the State Government, as the case may be, for the retail sale of such foodgrains to the public.

(3) Where any essential commodity is sold, as aforesaid, the sale proceeds thereof, after deduction of the expenses of any

such sale or auction or other incidental expenses relating thereto, shall—

(a) where no order of confiscation is ultimately passed by the Collector,

(b) where an order passed on appeal under sub-section (1) of section 6C so requires, or

(c) where in a prosecution instituted for the contravention of the order in respect of which an order of confiscation has been made under this section, the person concerned is acquitted,

be paid to the owner thereof or the person from whom it is seized.”.

Amendment of section 6B.

5. In section 6B of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

“(3) No order confiscating any essential commodity, package, covering, receptacle, animal, vehicle, vessel or other conveyance shall be invalid merely by reason of any defect or irregularity in the notice given under clause (a) of sub-section (1), if, in giving such notice, the provisions of that clause have been substantially complied with.”.

Amendment of section 6C.

6. In section 6C of the principal Act, in sub-section (2), for the words “such person shall be paid”, the words, brackets, figures and letter “such person shall, except as provided by sub-section (3) of section 6A, be paid” shall be substituted.

Insertion of new section 6E

7. After section 6D of the principal Act, the following section shall be inserted, namely:—

Bar of jurisdiction in certain cases.

“6E. Whenever any essential commodity is seized in pursuance of an order made under section 3 in relation thereto, the Collector or, as the case may be, the judicial authority appointed under section 6C shall have, and, notwithstanding anything to the contrary contained in any other law for the time being in force, any other court, tribunal or authority shall not have, jurisdiction to make orders with regard to the possession, delivery, disposal or distribution of such property.”.

Insertion of new section 15A.

Prosecution of public servants.

8. After section 15 of the principal Act, the following section shall be inserted, namely:—

“15A. Where any person who is a public servant is accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his duty in pursuance of an order made under section 3, no court shall take cognizance of such offence except with the previous sanction—

(a) of the Central Government, in the case of a person who is employed or, as the case may be, was at the time of commission of the alleged offence employed, in connection with the affairs of the Union;

(b) of the State Government, in the case of a person who is employed or, as the case may be, was at the time of commission of the alleged offence employed, in connection with the affairs of the State.”.

9. Notwithstanding any judgment, decree or order of any court,—

Validation
of certain
orders.

(a) every order made, or purporting to have been made, before the commencement of this Act, by the Central Government or any State Government under clause (f) of sub-section (2) of section 3 of the principal Act in relation to foodgrains, edible oilseeds or edible oils and every act done before such commencement under or in relation to such order, shall be as valid and effective as if the said clause (f) as substituted by this Act had been in force at all material times and the said order had been made thereunder;

(b) every payment, or offer of payment, of price of such foodgrains, edible oilseeds or edible oils made before the commencement of this Act, shall be deemed to have been made in accordance with law, if—

(i) the price so paid, or offered to be paid, had been fixed having regard to the factors specified in sub-section (3B) of section 3 of the principal Act as substituted by this Act; and

(ii) in the case of payment, or offer of payment, by a State Government, such payment or offer of payment had been made after consultation with the Central Government:

10 of 1955. Provided that notwithstanding the retrospective operation of this section, no contravention of, or failure to comply with, any provisions of the Essential Commodities Act, 1955, as amended by this Act, shall render any person guilty of any offence punishable under the Essential Commodities Act, 1955, if such contravention or failure had occurred before the commencement of this Act.

K. K. SUNDARAM,
Secy. to the Govt. of India.

